

1 William A. Kershaw, State Bar No. 057486
2 Stuart C. Talley, State Bar No. 180374
3 **KERSHAW, CUTTER & RATINOFF LLP**
4 401 Watt Avenue
5 Sacramento, California 95864
6 Telephone: (916) 448-9800
7 Facsimile: (916) 669-4499

8 Jonathan Auerbach (admitted *pro hac vice*)
9 Jerome M. Marcus (admitted *pro hac vice*)
10 Steven G. Tyson, of Counsel
11 **MARCUS & AUERBACH LLC**
12 101 Greenwood Ave., Ste. 310
13 Jenkintown, Pennsylvania 19046
14 Telephone: (215) 885-2250
15 Facsimile: (888) 875-0469

16 *Attorneys for Plaintiff and the Class*

17 **UNITED STATES DISTRICT COURT**

18 **NORTHERN DISTRICT OF CALIFORNIA**

19 BARBARA FAFARD, Individually and
20 on behalf of all others similarly situated,

21 Plaintiffs,

22 vs.

23 APPLE INC.; BEST BUY CO., INC.; and
24 INCOMM HOLDINGS, INC.,

25 Defendants.

Case No.: 4:12-cv-05125-CW

**JOINT STATEMENT, STIPULATION
AND [PROPOSED] ORDER TO
CONTINUE CASE MANAGEMENT
CONFERENCE**

Date: July 10, 2013

Time: 2:00 p.m.

Courtroom: 2

Judge: Honorable Claudia Wilken

Pursuant to this Court's March 26, 2013 Order to Continue Case Management Conference ("Order") [Dkt. No. 29], Plaintiff Barbara Fafard ("Plaintiff") and Defendants Apple Inc. ("Apple"), Best Buy Co., Inc. ("Best Buy") and InComm Holdings, Inc. ("InComm") (collectively, "Defendants," and collectively with Plaintiff, the "Parties"), having been directed to file a joint statement advising the Court of the status of mediation and settlement discussions no later than July 3, 2013, hereby advise the Court as follows:

1. In late April 2013, the Parties rescheduled their mediation with Honorable Ronald M. Sabraw (Ret.) from April 25, 2013 to May 21, 2013.

2. On May 17, 2013, InComm and Best Buy filed extensive mediation statements with Judge Sabraw in advance of the May 21, 2013 mediation.

3. On May 21, 2013, Judge Sabraw conducted nine-hour mediation between InComm/Best Buy and Plaintiff at his JAMS office in San Francisco, California.

4. During the course of the mediation InComm, Best Buy and Plaintiff, through the efforts of Judge Sabraw, were able to reach an agreement in principle to settle the litigation.

5. This agreement in principle was reduced to a written Memorandum of Understanding (MOU) by Judge Sabraw on May 21, 2013. The MOU requires certain confirmatory discovery to corroborate specific representations made by InComm and/or Best Buy regarding the circumstances of the case. Despite their best efforts and now under Judge Sabraw's guidance, the Parties require an additional sixty (60) days to complete the confirmatory discovery contemplated under the terms of the MOU.

STIPULATION

NOW, THEREFORE, in consideration of the foregoing, the Parties request an additional sixty (60) days to complete confirmatory discovery under the MOU and return to the Court within that time frame, at a date and time convenient for the Court's calendar.

IT IS SO STIPULATED.

1 Dated: July 3, 2013

KERSHAW, CUTTER & RATINOFF LLP

2 By /s/ William A. Kershaw

3 William A. Kershaw
4 wkershaw@kcrlegal.com
5 Stuart C. Talley
6 stalley@kcrlegal.com
7 401 Watt Ave.
8 Sacramento, CA 95894
9 Telephone: 916-448-9800
10 Facsimile: 916-669-4499

11 **MARCUS & AUERBACH LLC**
12 Jonathan Auerbach (admitted *pro hac vice*)
13 auerbach@marcusauerbach.com
14 Jerome M. Marcus (admitted *pro hac vice*)
15 jmarcus@marcusauerbach.com
16 Steven G. Tyson, Esquire, Of Counsel
17 101 Greenwood Ave., Ste. 310
18 Jenkintown, PA 19046
19 Telephone: 215-885-2250
20 Facsimile: 888-875-0469
21 *Attorneys for Plaintiff and the Class*

22 DATED: July 3, 2012

MORRISON & FOERSTER LLP

23 By /s/ David M. Walsh

24 David M. Walsh
25 dwalsh@mofo.com
26 707 Wilshire Boulevard, Suite 6000
27 Los Angeles, CA 90071-3543
28 Telephone: 213-892-5200
Facsimile: 213-892-5454
Attorney for Defendant Apple Inc.

DATED: July 3, 2013

REED SMITH LLP

By /s/ Mathew M. Wrenshall

Mathew M. Wrenshall
mwrenshall@reedsmith.com
Abraham J. Colman
acolman@reedsmith.com
Felicia Y. Yu
fyu@reedsmith.com
355 South Grand Avenue, Suite 2900
Los Angeles, CA 90071
Telephone: 213-457-8000
Facsimile: 213-457-8080
*Attorney for Defendant InComm Holdings, Inc.
and Best Buy Co., Inc.*

~~PROPOSED~~ ORDER

Pursuant to the above Stipulation, and good cause appearing therefore, the July 10, 2013 Case Management Conference is CONTINUED to September 25, 2013 at 2:00 p.m.. The Parties shall file a joint statement advising the Court of the status of mediation and settlement discussions no later than September 18, 2013.

IT IS SO ORDERED.

Dated: 7/8/2013



THE HONORABLE CLAUDIA WILKEN
UNITED STATES DISTRICT COURT JUDGE

1 I, William A. Kershaw, hereby attest that concurrence in the filing of this Stipulation has
2 been obtained from each of the other signatories to this document, in full accordance with Civil
3 L.R. 5-1(i)(3).

4
5 DATED: July 3, 2013

KERSHAW, CUTTER & RATINOFF, LLP

6 By /s/ William A. Kershaw

7 William A. Kershaw
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28